IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7086 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT SIDHEE CEMENT LTD.

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 7086 of 2005

MR MITUL K SHELAT for Petitioner No. 1-2

GOVERNMENT PLEADER for Respondent No. 1

..... for Respondent No. 2-5

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 28/04/2005

ORAL JUDGEMENT

1. Rule. Mr.Prachhak, learned A.G.P. for the

respondents waives service of Rule. With the consent of the learned Advocates of both the parties, the matter is taken up for final hearing on today.

2. Upon hearing the learned Counsel appearing for the parties, it appears that there is no dispute on the point that the issue raised in this petition so far as it relates to the amendment of the rules as per the notification dtd.26.12.2003 is covered by the decision of this Court in case of Gujarat Blacktrap Quarry Industries Association Vs. State of Gujarat reported in 2005(8) GHJ 461 whereby so far as the C- Class lands are concerned, the rules are held to be ultra vires so far as they relates to indicate in the levy of land revenue exceeding 15 times. It may be stated that at Para 21 of the said decision it was observed as under:-

" In view of the aforesaid discussion, the impugned Rules of 2003 so far as they relate to giving rise to the revenue assessment of lands situated in C class for any other use to the extent of exceeding 15 times in effect 15 as per sq mtr, is discriminatory and therefore unconstitutional and is violative of Article 14 of the Constitution and hence the impugned rules to that extent are declared as unconstitutional and void. As a consequence, the impugned rules for the aforesaid lands shall continue to operate for rise upto 15 times only and therefore the revenue recoverable for the aforesaid lands would be 15ps sq mtr."

3. Under the circumstances, the demand made by the authority for recovery of revenue at the rate of 25 paise per sq mtr in view of the notification dtd.26.12.2003 for C-class of the land cannot be maintained in the eye of law and the authority at the most would be entitled to recover the amount of NA revenue assessment at the rate of 15ps per sq mtr only.

4. In view of the aforesaid notices issued for recovering of land revenue for NA assessment so far as they relates to exceeding 15 ps for industrial use of the land as C-class category, are quashed and set aside and it is further observed that the authority shall be entitled to recover the amount at the rate of 15 paise per sq mtr for the land in question for industrial use. In view of the said decision, the revenue assessment for residential use has remained unchanged.

5. Consequently, the proportionate amount based on the NA revenue assessment shall also be reduced. The

petitioner shall pay the revenue as mentioned for residential use and for industrial use at the rate of 15 paise per sq mtr within period of 2 months from today.

6. The petition is partly allowed to the aforesaid extent. It is made clear that so far as the District Panchayat taxes are concerned, the issue is not considered and it would be open to the petitioner to make appropriate representation for proportionate reduction if otherwise permissible in eye of law. Rule partly made absolute. Considering facts and circumstances, there shall be no order as to costs.

(JAYANT PATEL, J.)

28.04.2005
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